



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 01 2010

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dale Drachenburg
Didion Milling, Inc.
501 South Williams Street
Cambria, Wisconsin 53923

Re: Notice of Determination and Notice of Violation issued to Didion Milling, Inc., Cambria, Wisconsin

Dear Mr. Drachenburg:

The United States Environmental Protection Agency received your letter dated February 29, 2008, in which you disclose, on behalf of Didion Milling, Inc. (Didion Milling), non-compliance with reporting and testing requirements under Chapter 285 of the Wisconsin Statutes, NR 407 of the Wisconsin Administrative Code (Wis. Admin. Code), and the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.* Specifically, you disclosed that Didion Milling failed to conduct and submit ambient air quality monitoring samples for total suspended particulate matter (TSP) from June 2007 to February 13, 2008, as required by its Air Pollution Control Construction Permits 06-DCF-166 and 07-DCF-003 issued to Didion Milling by the Wisconsin Department of Natural Resources (WDNR), and the Ambient Air Quality Monitoring Compliance Plan submitted by Didion Milling and accepted by WDNR.

- I. Didion Milling is not entitled to any penalty mitigation or relief under EPA's Audit Policy.

EPA issued the Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations (Audit Policy), 65 Fed. Reg. 19,618 (April 11, 2000), to encourage regulated entities to conduct voluntary compliance evaluations and to disclose and promptly correct violations. As an incentive for companies to undertake self-policing, self-disclosure, and self-correction of violations, EPA may substantially reduce or eliminate gravity-based civil penalties. EPA finds that Didion Milling failed to meet at least three of the conditions that are required in order for EPA to decline to seek or reduce gravity based penalties under the Audit Policy. First, Didion Milling did not discover its violations through an environmental audit or a compliance management system. Didion Milling discovered the violations as a result of an information request by a citizen group, inspections and ongoing enforcement actions conducted

by WDNR, and because Didion Milling hired a new employee to oversee environmental compliance issues for its facility. Second, Didion Milling did not discover and disclose the violations independent of the government or a third party plaintiff because, as referenced above, Didion Milling did not discover and disclose the violations prior to: (1) the commencement of WDNR's inspection or investigation at its facility; (2) notice of a citizen suit against Didion Milling; and (3) imminent discovery of the violations by a regulatory agency. Third, EPA does not believe that Didion Milling corrected the violations within sixty calendar days from the date of discovery of the violations. In a complaint filed by the State of Wisconsin against Didion Milling, Case No. 2010-CX-000002, Wisconsin alleged that Didion failed to report air monitoring results for TSP from July 2007 through February 2009, and operated in violation of the ambient air quality standard for TSP on several occasions during that period. Didion Milling is not eligible for any penalty mitigation or relief for its disclosed violations to EPA because it does not meet three of the requirements under the Audit Policy.

II. Notice and Finding of Violations.

EPA has determined that Didion Milling violated State Implementation Plan (SIP) provisions approved by EPA under Section 110 of the Clean Air Act, 42 U.S.C. § 7410, at its facility located at 501 South Williams Street, Cambria, Columbia County, Wisconsin 53923. Specifically, Didion Milling failed to conduct ambient air monitoring for TSP for the period of June 2007 through at least February 13, 2008, as required under its Air Pollution Control Operating Permits 06-DCF-166 and 07-DCF-003 and the Wisc. Admin. Code §§ NR 439.03(12) and NR 439.10.

III. Statement of Determination and Reservation of Rights.

EPA is aware of two Stipulation and Orders for Judgment entered into by the State of Wisconsin and Didion Milling, Case No. 2010-CX-000002, by which Didion agreed to pay a total penalty of \$1,050,000 for twenty-three alleged violations of Wisconsin's air pollution and water laws. The Stipulation and Orders for Judgment, entered by the court on April 26, 2010, resolved Didion Milling's liability for failure to conduct ambient air monitoring for TSP for the period of July 2007 through February 2009 with the State of Wisconsin. Although these Stipulation and Orders have no binding effect on EPA, EPA has determined *not* to initiate an enforcement action at this time for Didion Milling's failure to conduct and submit air quality monitoring samples for TSP from June 2007 through February 13, 2009.

Violations described in a Notice of Determination (NOD) and Notice of Violation (NOV) such as this will be considered "previous violations" of the CAA under the Audit Policy's "repeat violations" provision should Didion Milling or the corporate structure to which Didion Milling belongs violate the same or similar provisions of the CAA within the next five years.

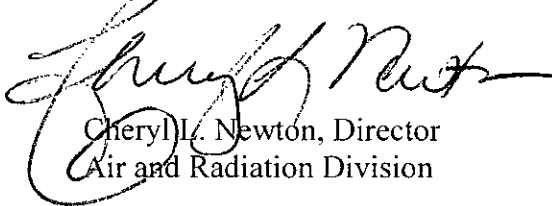
This NOD-NOV does not relieve Didion Milling of its obligation to comply with all applicable provisions of Federal, State and local law, nor may it be construed to be a ruling on, or determination of, any issue relating to any Federal, State or local permit. This NOD-NOV

does not constitute a waiver, suspension or modification of the requirements of the CAA or any regulations promulgated thereunder.

Additionally, EPA reserves its right to initiate an enforcement action for any past, present, or future violations of the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., or any other provision of law against Didion Milling.

If you have any questions please contact Manoj P. Patel of my staff at (312) 353-3565.

Sincerely yours,



Cheryl L. Newton, Director
Air and Radiation Division

cc: Eileen Pierce, Regional Leader
South Central Region

Bill Baumann, Section Chief, Compliance and Enforcement
Wisconsin Department of Natural Resources